

REMARKS

Status of Claims

Claims 31, 32, 34-43, 45-53, 55, 56, and 69-70 were pending. By this Amendment, claims 31 and 42 are amended, and new claims 71 and 72 are presented. No new matter is entered.

Claim Rejections: 35 U.S.C. § 102(b)

Claims 31, 32, 34-43, 45-53, 55, 56, and 69-70 were rejected under 35 U.S.C. § 102(b) as reciting subject matter anticipated by U.S. Pat. No. 6,350,269 to Shipp et al.

Claims 31 and 42, as amended, require a that the clip applier's trigger be operably linked to the jaw push tube and to the clip pusher such that the trigger sequentially actuates first the jaw push tube and afterward the clip pusher, so that the applicator adopts a first stage in which the jaw push tube advances and causes the jaws to engage but the clip pusher does not move, and a second, later, stage in which the clip pusher advances to urge a clip onto the support shelves of the engaged jaws.

Shipp does not disclose this claimed sequential relationship. Indeed, Shipp expressly criticizes designs that separate jaw closure and clip advancement into separate stages: "Fogelberg et al. also has an *overly-complex multi-stage trigger arrangement* for actuation of the jaws and the clip advancement mechanism" (col. 3, lines 16-18, emphasis added). Shipp then touts his single-stage trigger as an improvement: "The present invention presents several improvements over Fogelberg et al. including: . . . (2) a smooth *single stage trigger action which simultaneously closes the jaws and advances the fowardmost clip into the jaws*" (col. 3, lines

18-23, emphasis added. Thus Shipp both fails to disclose the claimed clip applier and teaches away from it.

For these reasons, Applicant asks the Examiner to reconsider and withdraw the rejection.

Respectfully submitted,

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